

Dated 3-11-2000

**F.NO. 52/03/2000-CX.1**

Government of India

Ministry of Finance

Department of Revenue

**Subject : Classification of Dhoti/Sarees as fabric under Chapter 52/54/55 or as made up articles under Chapter 63 - regarding.**

In view of the tribunal judgement in the case of CCE, Chandigarh Vs. JCT Mills Limited [1999 (112) ELT/533(T)], the appeal against which has been dismissed by the Supreme Court on the ground of delay as well as merits, doubts have been raised in some Commissionerates whether dhotis and sarees which were woven in running length and after processing are sold as such by mere cutting at demarcated place and so far were being classified as fabric under Chapter 52/54/55, have now to be classified as made-up articles under Chapter 63.

2. The matter has been examined in the Board. It is observed that while discussing the facts of the JCT case, CEGAT has observed that it is clear from the facts on record that to demarcate the individual pieces along the selvedge, there were five lines consisting of extra threads contributing greater thickness to cloth along these lines with the outermost line running at the edge. The adjudicating authority had noted as under :-

" The purpose of these lines obviously is to provide a substitute for hem i.e. protect unravelling of yarn to prevent fraying of the edges. The ends of the fabrics were cut without any hemming or knotting and do not have any fringed or tasseled edges. However, in the middle of fabric, there are two sets of four lines each running from selvedge to selvedge i.e. lines along the weft with a distance of 20 cm between the two. Since these two sets of lines are to be at periodical intervals of 2.5 meters along the length of the fabric, the cut edges also have the lines at some distance depending upon how exactly they have been cut."

3. In 1995, Section XI on Textiles and Textile articles was aligned with corresponding section on Textiles in HSN. Note 5 of Section XI of Central Excise Tariff incorporated in the Tariff even prior to the alignment, defines "made-up" and corresponds to Note 7 of Section XI of HSN. As per explanatory note to HSN (P.714), vide notes (2), the rectangular (including square) articles simply cutout from larger pieces without other working and not incorporating changes formed by cutting diving threads are not regarded as "produced and finished stage". The fact that these articles may be presented folded or put up in packing (for example retail sale) does not affect their classification. Similarly, as per Explanatory Note (3), the expression "made-up" excludes fabrics the cut-edges of which have been prevented from unravelling by whipping or by other simple means.

4. Furthermore, a long list of articles covered under heading 63.07 has been given in HSN. However, dhotis and sarees or items similar to these have not been covered by this list. The industry has particularly highlighted the difference in construction of Dhotis/Sarees and Bedsheets/Chaddars, the differences in cloths and uses, and how Dhotis/Sarees in the Indian context used as an apparel by general masses are essentially of the nature of fabrics.

5. Directorate General of Foreign Trade had examined the classification of dhotis and sarees in textile group under DEPB Scheme and has clarified under the policy circular No. 9(RE-99)/99-2000/DT.27.05.99 that un-hammed and/or unstitched dhotis and sarees are classifiable as fabrics.

6. Board has also taken note of the fact that prior to 1986 the cotton dhotis and sarees were being classified alongwith fabrics only under the then Tariff item 19 (cotton fabrics). The exemption notifications 171/70, 258/82 and 55/85, followed by notification no. 247/88 issued after the HSN based Tariff was adopted in 1986 show that the contemporaneous understanding had always been to treat dhotis and sarees as fabrics.

7. The matter also came up for discussion in the Tariff-cum-General conference of Chief Commissioners of Central Excise held at Mumbai on 29th August, 2000. The conference which had occasion to examine certain samples, observed that the fabric of Dhotis and Sarees was woven in running length with same pattern of weaving which does not contain extra threads contributing greater thickness to the cloth with the outermost line running at or near the edges at regular interval so as to provide a substitute for hem, i.e. to protect unravelling of yarn. It also does not contain the dividing threads merely needing separation, though no doubt, there was in some samples colour band of similar weave to separate different pieces when cut out of running length. The Conference took note of Note 5(b) and of Section XI and the DGFT circular. The Conference also took note of the long standing practice of treating dhotis and sarees as fabrics during pre-1986 as well as post 1986 period and concluded that dhotis and sarees cannot be put at par with the chaddars (bedspreads or bed linens) and CEGAT judgement in JCT Mills case cannot be applied to dhotis and sarees. Taking due note of foregoing factors, the Conference finally decided that the long standing practice of classifying dhotis and sarees as fabrics need not be disturbed.

8. Board has accepted the decision taken in the conference. In the circumstances, it is hereby clarified that unhemmed / unstitched Dhotis/Sarees which are basically woven as fabrics in running lengths with same pattern of weaving and which do not contain extra threads contributing greater thickness to the cloth with the outermost line running at or near the edge at regular intervals, so as to provide a substitute for hem (i.e. to protect unravelling of yarn or to prevent fraying of the edges), will continue

to be classified as fabrics under Chapters 52/54/55. Rectangular (including square) articles simply cut out from such long running length fabrics without other working and not incorporating fringes formed by cutting dividing threads, even if sold folded or put up in packing will not be regarded as "product in the finished state" and would merit classification as fabrics as per this practice followed hitherto.

9. The field formations may suitably be informed and pending disputes settled taking due note of the above guidelines.